

Testimony before the Public Safety Committee on SB 409,
An Act Concerning Homemaker and Companions Services

March 10, 2020

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My thanks to the committee for raising this bill, which is critical to the homecare industry.

The initial version of last year's Department of Social Service budget implementer included what was described as a ban on non-compete agreements. That implementer was passed by the Human Services committee with little review or public input. When questions were raised about the impact of the proposal, it was removed from the implementer and inserted directly into the state budget, an unusual and questionable procedure for a non-fiscal item. As Section 305 of HB 7424, the non-compete ban became law when the budget was passed by the General Assembly and signed by the Governor.

In truth, non-compete agreements weren't a problem in the homecare industry; agencies have long allowed caregivers to work for other companies and to have their own clients on the side. Unfortunately, Section 305 also appears to ban non-solicitation agreements, a prohibition which profoundly affects our industry.

Non-solicitation agreements (NSAs) are very different from non-compete agreements. Narrowly written NSAs are allowed in virtually every state and every industry; they simply prevent employees from taking existing clients away from their employers. It's a common-sense protection, and without it many business models would be undermined.

The ban on NSAs passed in Connecticut last year unfairly targeted private homecare and home health care, a vital and growing industry that provides a valuable service to vulnerable residents while employing over 30,000 people in our state. These services permit our seniors to remain in their own homes--where they overwhelmingly prefer to be--while keeping the Medicaid budget down by reducing the need for institutional care. In fiscal year 2018, homecare and home health care were responsible for \$398.6 million of savings in the state budget.

Because NSAs protect the goodwill and tangible value agencies provide, they are essential to the stability of the agency model. Without NSAs, homecare agencies are at risk of becoming mere referral services, working to match client and caregiver, then losing both to a private relationship. Also lost is an agency's substantial investment in recruiting both clients and caregivers, performing comprehensive background checks on applicants, and training caregivers to meet the needs of each particular client.

A large majority of Connecticut residents choose to contract with an agency rather than dealing with individual caregivers. They prefer the convenience, oversight, safety, and stability that only an accredited agency can provide. It's a care model based on long-term relationships with both clients and caregivers.

Agency homecare employers provide maximum caregiver protection, including Workers' Compensation, unemployment benefits, withholding, health insurance, personalized training, and oversight by state

agencies. Employees who move to the underground economy lose those benefits, and the state loses their tax payments.

The bill before you would secure to employees the freedom of movement promised by a ban on non-compete agreements, while preserving the stability for caregivers, clients, and agencies provided by non-solicitation agreements. Under SB 409 solicitation applies for a limited amount of time, and only to existing clients of the agency with which a caregiver has an agreement. It restores to homecare agencies the same protections available in other states, and to other businesses here in Connecticut.

Companions & Homemakers is the largest homecare agency in Connecticut because of the quality connections we create between caregiver and client. Finding the right person to provide the right service is what our company does. If the law forbids us to protect this vital match, which is our company's primary asset, we fear that the days of agency homecare in our state are numbered. To protect the model for care which has so well served both clients and taxpayers, we urge you to support this bill.